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STATE OF ARIZONA

SEP 1 3 1994

DEPARTMENT OF INSURANCE

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In the Matter of:

OLD AMERICAN INSURANCE COMPANY

Respondent.

) Docket No. 8550

CONSENT ORDER

A market conduct examination was made of Old American Insurance Company, hereinafter referred to as "Respondent", by a Market Conduct Examiner for the Arizona Department of Insurance ("ADOI") covering the time period from January 1, 1989 to December 31, 1992. Based upon the examination results, it is alleged that Respondent has violated the provisions of Arizona Revised Statutes, Title 20, Sections 20-461 and Arizona Administrative Code Rule ("A.A.C. R") 4-14-801. Respondent wishes to resolve this matter without formal adjudicative proceedings and hereby agrees to a Consent Order.

The Director of Insurance of the State of Arizona ("the Director") enters the following Findings of Fact, and Conclusions of Law, which are neither admitted nor denied by Respondent, and the following Order:

#### FINDINGS OF FACT

- 1. Respondent is authorized to transact life and disability insurance as an insurer pursuant to a Certificate of Authority issued by the Director.
- 2. The Examiner was authorized by the Director to conduct a market conduct examination of Respondent and has prepared the Report of Examination of the Market Conduct Affairs of

Respondent ("the Report"). The period covered by the on-site examination was concluded as of December 31, 1992.

- 3. The Examiner reviewed fifteen complaints received by the ADOI during the time period of the examination. Of these, Respondent failed to respond to an inquiry of the ADOI regading a claim within fifteen (15) working days of receipt on two (2) inquiries.
- 4. The Examiner reviewed fifty (50) paid death claims and twelve (12) denied death claims out of a population of 249. As to these:
- a. Respondent failed on six (6) denied death claims to acknowledge receipt of the claims within ten (10) working days unless payment is made within such time.
- b. Respondent failed to accept or deny one (1) denied death claim within fifteen (15) working days after receipt of properly executed proofs of loss.

### CONCLUSIONS OF LAW

- 1. By failing to answer an inquiry of the ADOI regarding a claim within fifteen (15) working days of reciept, Respondent violated A.A.C. R4-14-801(E)(2).
- 2. By failing to acknowledge claims within ten (10) working days unless payment is made within such time, Respondent violated A.A.C. R4-14-801(E)(1) and A.R.S. § 20-461(A)(2).
- 3. By failing to advise claimants of the acceptance or denial of their claims within fifteen (15) working days after receiving receipt of properly executed proofs of loss, Respondent violated A.A.C. R4-14-801(G)(1)(a) and A.R.S. § 20-461(A)(5).

- 4. Grounds exist for the Director to revoke or suspend Respondent's Certificate of Authority.
- 5. Grounds exist for the entry of all other provisions of the following order.

#### ORDER

Respondent having admitted the jurisdiction of the Director to enter the Order set forth herein, having waived the Notice of Hearing and the hearing, having waived any and all rights to appeal this Order, and having consented to the entry of the Order set forth hereinafter, and there being no just reason for delay:

## IT IS HEREBY ORDERED THAT:

- 1. Respondent shall respond to an inquiry of the ADOI regarding a claim within fifteen (15) working days of receipt; acknowledge claims within ten (10) working days of the receipt of a claim unless payment is made within such time and notify insureds of the acceptance or denial of claims within fifteen (15) working days of receipt of properly executed proofs of loss.
- 2. Respondent shall develop a written action plan to monitor and ensure that its personnel process claims in accordance with A.R.S. §§ 20-461(A)(2) and (A)(5) and A.A.C. R4-14-801(E)(1) and (G)(1)(a). Respondent shall submit a copy of this action plan to the ADOI for approval within thirty (30) days of the filed date of this Order.
- 3. The ADOI shall be permitted, through an authorized representative, to verify that Respondent has complied with all provisions of this Order, and the Director may separately order Respondent to comply.

Respondent shall pay a civil penalty of ONE THOUSAND DOLLARS (\$1,000.00) to the Arizona Director of Insurance for remission to the State Treasurer for deposit in the State General Fund in accordance with A.R.S. § 20-220(B). Said \$1,000.00 shall be provided to the Administrative Law Division of the ADOI on or before September 9, 1994.

5. The Report of Market Conduct Examination as of December 31, 1992 to include the objections to the Report by Respondent, shall be filed with the ADOI.

DATED at Phoenix, Arizona this 13 day of September , 1994.

Chris Herstam Director of Insurance

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### CONSENT TO ORDER

- 1. Respondent, Old American Insurance Company, has reviewed the foregoing Order.
- 2. Respondent is aware of its right to a hearing at which hearing Respondent may be represented by counsel, present evidence and cross-examine witnesses. Respondent has irrevocably waived its right to such public hearing and to any court appeals relating thereto.
- 3. Respondent admits the jurisdiction of the Director of Insurance, State of Arizona, and consents to the entry of this Order.
- 4. Respondent states that no promise of any kind or nature whatsoever was made to induce it to enter into this Order and that it has entered into this Order voluntarily.
- 5. Respondent acknowledges that the acceptance of this Order by the Director of Insurance, State of Arizona, is solely for the purpose of settling this litigation against it and does not preclude any other agency or officer of this state or subdivision thereof from instituting other civil or criminal proceedings as may be appropriate now or in the future.
- American Insurance Company, he has been authorized by it to enter into this Order for and on its behalf.

## OLD AMERICAN INSURANCE COMPANY

(Date) Sam Johnan

1 COPY of the foregoing mailed/delivered this 13th day of September , 1994, to: 2 Gay Ann Williams 3 Deputy Director Gregory Y. Harris Chief Administrative Law Judge Erin Klüg Manager Market Conduct Examinations Division 6 Saul Saulson Supervisor Examinations Section Shirley Polzin 8 Supervisor Life and Disability Section 9 Deloris E. Williamson Assistant Director 10 Rates & Regulations Division Gary Torticill 11 Assistant Director and Chief Financial Examiner Corporate & Financial Affairs Division 12 Ron Watkins Assistant Director 13 Consumer Services and Investigations Mary Butterfield (L&D Orders only) 14 Manager Health Policy Division 15 DEPARTMENT OF INSURANCE 16 2910 North 44th Street, Suite 210 Phoenix, AZ 85018 17 18 Gary K. Hoffman Associate General Counsel 19 Old American Insurance Company P.O. Box 418573 20 Kansas City, Missouri 64141-9573 21 22 23 24 25

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